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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/224,477	12/31/1998	ROBERT C. DIXON	239/104	3646

7590

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EXAMINER

MOORE, JAMES K

ART UNIT

PAPER NUMBER

2686

DATE MAILED: 07/30/2003

22

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/224,477

Applicant(s)

DIXON, ROBERT C.

Examiner

James K Moore

Art Unit

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 22-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 1998 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 17, 2003 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 34-45 and 47 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 34 and 40 are directed to an "article comprising a storage medium having stored thereon instructions." The specification does not describe an article comprising a storage medium that stores instructions.

Claims 35-39 depend on claim 34, and claims 41-45 depend on claim 40.

Claim 47 includes the limitation "wherein the control station further assigns the first frequency to a third cell, wherein the third cell is not adjacent to a cell that utilizes the first frequency." This limitation is not described in the specification.

***Claim Rejections - 35 USC § 102***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 22-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmidt (U.S. Patent No. 4,765,753).

Regarding claim 22, Schmidt discloses a method comprising determining a first code in a first cell proximate to a second cell, selecting a second code different from the first code, and assigning the second code to be utilized in the second cell. See col. 2, lines 26-35.

Regarding claim 23, Schmidt discloses all of the limitations of claim 22, and also discloses that the method may comprises assigning the second code to an additional cell not adjacent to the second cell. See col. 2, lines 32-35.

Regarding claim 24, Schmidt discloses all of the limitations of claim 22, and also discloses that the method may comprise assigning the second code to cells in a pattern of cells not adjacent to the second cell. See col. 2, lines 32-35.

Regarding claim 25, Schmidt discloses all of the limitations of claim 22, and also discloses that the method comprises determining a first frequency utilized in the first

cell, selecting a second frequency different from the first frequency, and assigning the second frequency to be utilized in the second cell. See col. 2, lines 26-32.

Regarding claim 26, Schmidt discloses all of the limitations of claim 25, and also discloses that the method may comprise assigning the second frequency to an additional cell not adjacent to the second cell. See col. 2, lines 32-35.

Regarding claim 27, Schmidt discloses all of the limitations of claim 25, and also discloses that the method may comprise assigning the second frequency to cells in a pattern of cells not adjacent to the second cell. See col. 2, lines 32-35.

Regarding claim 28, Schmidt discloses all of the limitations of claim 22, and also discloses that the method comprises determining a first frequency utilized in a first cell in a first region proximate to a second cell in a second region. See col. 2, lines 26-32.

Regarding claim 29, Schmidt discloses all of the limitations of claim 28, and also discloses that the method may comprise assigning the second frequency to an additional cell not adjacent to the second cell. See col. 2, lines 26-32.

Regarding claim 30, Schmidt discloses all of the limitations of claim 28, and also discloses that the method may comprise assigning the second frequency to cells in a pattern of cells not adjacent to the second cell. See col. 2, lines 26-32.

Regarding claim 31, Schmidt discloses a method comprising determining a first frequency utilized in a first cell, selecting a second frequency different from the first frequency, and assigning the second frequency to a second cell. See col. 2, lines 26-32.

Regarding claim 32, Schmidt discloses all of the limitations of claim 31, and also discloses that the method may comprises assigning the first frequency to a third cell not adjacent to a cell that utilizes the first frequency. See col. 2, lines 32-35.

Regarding claim 33, Schmidt discloses all of the limitations of claim 31, and it is inherent that the first cell is in a first region and the second cell is in a second region.

5. Claims 46 and 48 are rejected under 35 U.S.C. 102(e) as being anticipated by Chuang et al. (U.S. Patent No. 5,212,831).

Regarding claim 46, Chuang discloses a control station (port 30, 40, 50, or 70) comprising a receiver and a transmitter. The control station determines a first frequency utilized in a first cell, selects a second frequency different from the first frequency, and assigns the second frequency to a second cell. See Figures 1 and 3 and col. 12, lines 8-51.

Regarding claim 48, Chuang discloses all of the limitations of claim 46, and also discloses that the first cell is in a first region and the second cell is in a second region. See Figure 1.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Moore, whose telephone number is (703) 308-6042. The examiner can normally be reached on Monday-Friday from 8:30 AM - 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold, can be reached at (703) 305-4379.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Ken Moore

7/23/03

JKM

*Marsha D Banks-Harold*

MARSHA D. BANKS-HAROLD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600